

Voluntary Stewardship Program Statewide Advisory Committee Meeting Joint Advisory Committee and Technical Panel Meeting MINUTES

Thursday, August 1, 2016
9am – 4:00pm

Facilitator – Bill Eller, VSP Coordinator, WSCC

JOINT STATEWIDE ADVISORY COMMITTEE AND TECHNICAL PANEL MEETING

Session Objective:

Update SAC and TP on VSP status, VSP budget requests and continue the discussion of the VSP work plan policies and procedures guidance.

Attendees:

Lacey: Scott Kuhta, COM; John Stuhlmiller (SAC); Evan Sheffels, WFB; Ron Shultz, WSCC; Lauren Driscoll, ECY (TP); Brian Cochrane, WSCC (TP); Amy Windrope, WDFW (TP); Kelly McLain, WSDA (TP); Brandon Roozen (SAC); Alicia Johnson, WSCC

Spokane: Bill Eller, WSCC; Wes McCart, Stevens County (SAC); Andy Duanu; Adam Cares, Stevens County; Seth Flanders, Kevin Scribner

Yakima: Zach Meyer, ECY; Gary Graff, ECY

Webinar only: Kara Simons, Skagit County; John Bolender, Mason CD; Jennifer Thomas, VSP consultant; Lynda Lyshall, SJICD; Wendy Neet, FCCD; Terry Bruegman, CCD; John Small, Anchor QEA; Amy Martin, OCD; Anna Lael, KCCD; Lee Hemmer, FCCD; Megan Stewart; Jeff Klundt, WWCD; Ryan Walters, Skagit County; Marie Lotz, GCCD; Anna Nelson, Kittitas County; Eric Pentico, WDFW

9:15 am:

VSP Program Status

- Budget

Ron discusses work plan (WP) development v. implementation. Implementation is after the WP has been approved by Commission and the work group (WG) implementing the WP. We are still in the developing the WP stage – not implementation. OFM says all state agencies are going to get carry forward budget monies only. Still a potential for budget cuts. K-12 & McLeary decision. Revenues up 7%. \$42 Billion to spend, but most of that will be consumed by McLeary and mental health. No new asks for money beyond the carry forward level. In the Commissions budget – VSP carry forward – \$7.6M out of public works assistance account – same as last year. \$9M estimated need. \$1.4M difference. We will still make the ask for the additional \$1.4M. \$150k/year/county - both for finalization of the WP as well as implementation of the WP. Other part of funding is 1.5 FTE for the Commission. Still waiting for agency costs to come into the Commission. Need to finalize the first draft of the decision package. Have draft in next few weeks. Will distribute it when it is done. Implementation: the idea is the \$150k would be used during implementation to fund an FTE, to do outreach under VSP. Can be used for projects, but the notion of VSP is to not use new funding. Existing programs would use their budgets to fund VSP projects. This will develop a list of funding needs. This counters the argument that VSP needs \$150M to implement VSP. So, that is the expectation – stakeholder management. Old county contract versions ended, now

everyone is on the same schedule – June 30, 2016. We can't guarantee funding after that. There are concerns about the fund source – public works assistance account.

Kevin Scribner asks if the \$150/county is prorated based on ag activity in county?

Ron says no.

- Monitoring

Ron says that the \$150k should include monitoring. Monitoring should be included in that – all three goals (critical areas (CA), economic viability, and outreach to landowners) should be covered. We need to look at how we can incorporate other entity monitoring – wetlands, through salmon recovery groups, water quality as an indicator of CA function. We are working on a budget decision package on monitoring – conservation district BMP's. Part of that could include VSP. How much and where? One challenge is issues on confidentiality and non-disclosure.

Commissioner McCart asks about BMP's. There is a misnomer that we will start doing more BMP's than we were doing before – that isn't true.

Ron agrees. We should emphasize that. We need to make sure the work groups capture what is already being done – the protections already in place as of July 22, 2011. Environmentalists and tribes are concerned about locking in bad conditions, but that is why there is a July 22, 2011 date. Another issue – what is the standard for BMP implementation? Answer – depends on fund source. NRCS – use NRCS standards. ECV funds through EPA? Use EPA standards. If using WSCC funds (CREP), use FSA / NRCS or NRCS standards. What is the landowner contracting for? Issue in Mason. Will we be requiring wider buffers? No – its whatever the program requirements of those programs.

Commissioner McCart says that there are folks in his area who will implement, but not take government money.

Ron says the WG and WP should capture that.

Brian says if someone is using their own money, what standards do they use?

Ron says that brings in the discussion about parcel v. landowner scale. Not based on one landowners, based on watershed scale. If what the landowner did doesn't add, that is ok.

Lauren says it is up to the WG to capture the variety of implementation that is being done – under NRCS standards or landowner standard or whatnot.

Kevin asks how the standard can be captured?

Commissioner McCart says most are using NRCS FOTG.

Ron says most landowners are familiar with NRCS standards and can put up a good fence.

John Stuhlmiller says there is lots of variety, but a standard in the WP doesn't need to be set out.

Ron says individual landowners must have some significant operations in order to affect CA's. Remember, focus isn't on # of animals – it's on if the ag activity is impacting the CA. Also not worried about the individual parcel. Watershed scale.

Kevin – parcel scale and watershed scale – more discussion?

Ron – yes – in Framework document. August 23rd is WSCC special meeting budget decision. Next budget forecast is mid-September.

- Implementation
- State agency requests
- Commission VSP budget decision package
- VSP counties v. VSP-like counties

Ron discusses VSP-like counties – didn't opt into VSP, but have similar CA ordinances like VSP. Those other ordinances involve getting the landowner to do a farm plan to address the CA. Confidentiality agreement with CDs. Snohomish, King, Pierce not VSP like, but already updated their CAO. Snohomish is progressive. These counties want funding to work with their conservation district to implement their ordinances. Conservation technical assistance budget package will include a request for some funding for those counties. Ron explains how the Commission received livestock technical assistance funding in the past and how that will be expanded into this. The package will set out resource concerns that will be addressed through technical assistance – VSP-like counties and districts will be incorporated there.

John Stuhlmiller says that works – don't want to add more money to the request.

Evan asks what that budget ask is?

Ron says \$2.5M for technical assistance for all those natural resource areas to be addressed.

John says this wouldn't preclude a CD from using this for VSP – it depending on the resource?

Ron says yes. CDs can use this money.

- Work plan approvals in 2018 -> monitoring
- SAC membership update
 - Environmental
 - Tribes

Ron summarizes his search for more SAC members. Tribes are still skeptical. Yakamas not really interested. Will keep working on that. Opposition to incentive based programs. Have not approached Umatilla's.

Kevin says the Umatilla's are on the Walla Walla WG.

Ron says David Trout is still a member. Ron would rather have an eastern representative rather than two western reps.

Amy says she is also pursuing tribal representation.

John says it's important that the SAC is staffed. July of 2018 is a deadline. Talk about structure. Not really a separate meeting for each entity – SAC and TP. We need to work out some internal procedures with the SAC so that they know what to do when the TP doesn't approve a WP. Also, we need to provide advice on how the TP interacts with county groups so that the process isn't tainted at the end. The TP should have the ability to shape more than it ought at the beginning. Lots of interaction and groups on this call. We don't want to shape accidentally.

Ron – at what point do we shift these meetings from informal to more formal – TP separate from SAC meeting. Other question is how much engagement from the TP and SAC with local agencies. We've heard that more engagement with the locals is better – a better product would be created. This approach would avoid surprises. There will be things that come up that need to be addressed, or approaches that come in that you may or may not want to follow. Better to have more time to think your way through it. At what point do we shut off the contact with the TP? Is there is a quasi-judicial aspect that must be protected?

Kevin – guidance v. code. I like guidance better. TP can provide guidance to locals, and locals can provide guidance to TP. That is a positive interaction.

Kelly agrees. None of us really know what we are doing, so we are helping each other.

Kevin says the WGs don't have a lot of direction – guidance is more about mutual learning.

Kelly asks John about whether or not there is too much direction being provided.

John says he is not aware of any process violations yet – the TP and SAC are arbiters of the plan. At some point, the TP will need to meet separately. Need to have the framework decided first, then it can be reviewed by others. We shouldn't do a group-think all the way through – that runs the risk of tainting the well. We need to be careful that we are not shaping the process.

Ron says a process foul could be where the 4 TP agency regional staff that go to local WG meetings and that staff say "the WP must have x" or something along those lines. Could see a foul that way. There is a fine line about whether the plan must look like something in particular. Can see some uncomfortable conversations about having discussions with state agencies. Some WG's don't want agency involvement.

Amy – they run the risk.

Kelly – I want to be careful because I am a TP member but also out with the WG's. I've been telling them there are statutory requirements they must address, but they are free to do that. We don't have the bucket of tools to use to say this is how to do it. Look to other work groups to see what they are doing. There isn't anything to say to do it one way; it just needs to be addressed.

Ron agrees and says what if the WG doesn't address a species in the WP? What does the TP do with that?

John says we kind of need to make sure the TP are the folks who make the decisions on how to proceed.

Amy says there are two different time period – right now – guidance to locals and then the official capacity when we are looking at the WP's.

John says look at both. The TP needs to have their own discussion about how to do this. If one of the VSP groups isn't on the call, they may get upset.

Amy – do we need to have different types of meetings? This is an "update meeting". Then we can have a meeting where the TP meets, but the public doesn't comment.

Ron says we need to be clear about the purpose of the meeting. Ron says that the TP is to make a recommendation to the director about to sign or not to sign – so not quasi-judicial. Will talk with our AG again. Need clarity around the meetings.

Evan asks what is the difference if it is quasi-judicial versus not?

Ron says it's a more formal meeting process.

Evan says that it is valuable to have the informality of the meetings so far. Some WGs are inviting agency folks to be voting work group members. Need to figure out there.

John said Thurston and Chelan said no. Other work groups have sought to have the agency folks on there.

- Monthly consultant call – input?
Bill summarizes. Looking for input.

Ron – how does the monthly consultant call affect your concerns?

John says keep the monthly consultant call as is – no concerns about that. Like a FAQ format.

Ron says the consultant call seems to be helpful. After the regional meetings last December, we still might want to have an October in-person regional meeting. Ron asks for that input. We had them in Moses Lake, Prosser, and Chehalis.

Commissioner McCart asks what would be shared at those meetings. He gets the sense that the consultants just need guidance on what the TP and SAC is going to look at?

Ron says maybe just that – the guidance, framework and timeline? Maybe have the first work plan come through?

Amy asks about whether it could be a conference of input of what folks are doing? One on east side and one on west side.

Kevin says there is merit to that idea, but timing is important. Maybe have it at a time when ag folks are available?

Ron – maybe November?

Amy – could do it on a Saturday?

Kelly – says we could do it Nov-Feb.

Ron – we can develop this idea more.

John says end of Nov to 2nd week of December is when there are a lot of meetings. End of October / early November.

Kelly – have September meetings first, then this meeting.
Attendees likely consultants, may be some more. County folks as well. CD folks too. Need to have an eastern and western meeting location. What will attendees learn about – bulleted list. 20 minute presentations. How did you address ag viability? What CA's?

Brandon – says Skagit has some points that they need to address – ag viability.

Ron – Thurston and Chelan.

Kara Simons – Skagit County – do feel prepared to submit informally. Want to do the informal presentation first. Ryan says the WP is done and routed to the BOCC on Aug 15th to present it to them. Then going to release it to the public.

Ron says we could have Thurston, Chelan and Skagit as early presenters and have that at the regional meeting.

Kevin – do we have a sense on the progress of the templates? Maybe when both are ready?

Ron agrees.

Kara says they are prepared to present later in August.

John says both the TP and SAC should be present for these informal presentations. The SAC needs to be ready if the TP declines.

Ron asks if Skagit gives an informal presentation to the TP, and then their WP says to forward the WP on to the TP. Then it's a formal meeting of the TP. That can be done with the TP to be able to discuss or a presentation or just a review of the WP. If yes, the TP approves and the director approves. If the TP doesn't approve, it goes to the SAC. SAC and the local WG have interaction to address the concerns of the TP. It doesn't go back to the TP. The informal interaction doesn't have to be required. Could be requested by the county WG. How that informal engagement would work. Could tell them that as the final deadline looms, less opportunity to have the informal review.

John says not to require it. Once we've dealt with the first three, we should have a better sense. John thinks as we move down, we likely won't have all 24 go through an informal review.

Andy asks about the SAC review. Is there a minimum requirement for SAC review?

Ron says no formal requirement for SAC to be fully staffed. We are a ways to get to that point. I think we will have it fully empanelled. Tribal is "invite participation", not required.

Amy – each has lots of detailed? Informal presentation to both groups together?

Ron says yes.

Amy – present, we give feedback to them, we assess the guidance to see if it is effective.

John – does all of this have to occur under public scrutiny? TP may want to have discussions not in public? During the formal process?

Kevin – the VSP WG's are working along the lines that this is an open process at the local level and should be at the state level.

Kelly expects the meetings and discussion to be open.

Amy would agree. The more we can show we are in an open and public process the better.

Kelly says the public should see.

Ron – process for TP decision making. How does it do its deliberative process? Formal submittal to each agency, no confidential communication. Open process where each agency looks at it (internal discussion). Come back, each agency has their own take, then bring back to a meeting or meetings among the TP.

Commissioner McCart can't see how that couldn't be done in an open public meeting.

Ron agrees.

John urges us to go back to the statute to make sure we are looking at this. SAC Members – need to give them specific emails to use in case they get public records requests. Might not have to worry about TP members – worry more about SAC members.

Commissioner McCart – says the Commission would be ultimately responsible for the public records request.

Do SAC members have to have OPMA training? Would say yes.

- Other issues

9:45 am: Review of VSP Timeline document

- Informal vetting by the TP before the deadlines
- Discussion of Timeline document – TP always only has 45 days.

Kevin – asks about 5 year review.

Kelly – pull out the 5 year review – same year for 5 year review – do another review. Biennium report.

Post-Adoption – date accepted funding, then when plan approved required, then 5 year review due, then when biennium. 10 year test as well.

Bill says we should look at earlier discussion. Informal review must occur within the 2 years 9 months – must be before the TP review. No guarantee that they can get an informal review done. Would want to set up an informal review. Informal review is discretionary by the TP. Set up a schedule of slots that are available. Could do it during one week or could set some for the month. Be clear about purpose – locals present their issues and how theirs is different from others – not a presentation of the whole work plan. Not just, “we are following the work plan template”. Need some direction around that. What is different, what is new? What are the issues you are dealing with that you want guidance on? All are a little different.

10:15 am:

Review of VSP Workgroup Framework document

- Review changes made since last meeting
Guidance under sub A – reworked. Tips. No template. General discussions of these points. Protection v. enhancement discussion. Enhancement goals must be set, but only done if some funding is provided.

Lauren concerned about degradation of wet lands – new ag production. Can't derogate. What about a change from temp cropping to permanent cropping. Changing functions and values of CA's. VSP – other existing regulations – local, state, federal still apply. In the aggregate, can still encourage enhancement.

- Ag viability definition discussion
 - Commission
 - WSDA
 - Farm Bureau

Bill summarizes the discussion so far and that this is a continuation of the discussion from the last meeting. Had hoped to have a formal presentation of the different definitions, but haven't coordinated that yet. Commission doesn't have one yet.

John talks about Farm Bureau definition. Evan is author and has left. Have used it in Chelan and Thurston. Thurston has used it in the Ag viability sub-committee. Chelan and Thurston have done some thought on this.

Kelly says every county is struggling with Ag viability definition. Strength, weakness, threats. Kelly has put together some highlights and common areas being discussed in the WGs.

John says Ag viability doesn't have a monitoring component associated with it. FB definition has key elements of Ag viability to think about, rather than things to monitor.

Amy says that perhaps we could use the 5 and 10 year check-ins to see how Ag viability is doing.

John wants to focus on that at the next meeting – Chelan, Thurston, and FB.

1:30 pm:

VSP issues discussion.

- Does VSP apply to shorelines?

VSP and shorelines – shellfish growers. Existing AG is exempt, but shellfish growers sure seem to be an ag activities. SMP applies to new lands brought into production. Shellfish growers are bringing in new ground due to the burrowing shrimp issue. So, SMP would apply. New is the operative word – swapping one bit of land for another doesn't matter. Would mean additional regulation under the SMP than otherwise would apply to existing Ag. Ron will come up with something in writing about this. Aquaculture as an ag activity. Mason, San Juan working on including it. Thurston, Grays and Pacific will. Shoreline management and how it interacts with VSP has come up in the work groups.

Kelly - VSP applies wherever those ag activities occur.

Scott says COM is updating GMA handbook. VSP counties and non-VSP counties will be addressed. Conservation on Wednesday morning Aug 3.

John says each county gets to decide if shellfish growing is an Ag activity.

Amy - Chehalis restoration process – how they could be engaged with that? Asked WDFW how they could engage in that. How could we have shared goals around the 3 counties in the Chehalis restoration process?

John says there is no universal fix – Thurston (Lewis, Cowlitz) almost done – not sure the other two counties.

Ron says VSP encourages the work groups to engage with other entities (Chehalis process) with VSP and vice-versa.

We should encourage Chehalis to check out / connect with other work groups. Email about that – can encourage that in the VSP newsletter. Remember, to connect with the work groups in other counties.

John would like to see the work groups reach out to the others.

- VSP work groups as divisions of state or county government – the WSCC is working with our AG on this.
Ron - Advisory committee to, not a division of.

Scott sends a Supreme Court case that says OPMA doesn't apply to advisory committees.

Ron says that AG review has been done – that OPMA doesn't necessarily apply, but we recommend using it.

John says there isn't really a quorum in Thurston for voting purposes. There are 10-15 voting members on that group.

Ron says we recommend following the OPMA. Publicize that.

John says clarification is what is needed.

Commissioner McCart says OPMA doesn't apply unless the VSP work group or subcommittee is in an official meeting. The WG's are on their own – the WG forwards the plans on to the Commission for approval, not the County. The Commissioners can't make a statement on the plans so they won't be sued on this topic. Not a division of county government.

John says the Ag's OPMA video is very broad and raised more issues than it solved.

- 3:15 pm: Continue issues discussion
- Confidentiality of VSP Individual Stewardship Plans – the WSCC is working with our AG on this.
 - Possible quasi-judicial nature of the SAC and TP – the WSCC is working with our AG on this.
- 3:45 pm: Update on outreach efforts for VSP
Planners conference in September – full agenda already
[WSAC's Annual County Leaders Conference, November 15 – 17, Spokane](#)
- Possibly getting on the agenda – VSP presentation – Commissioner McCart will look at getting us on that. Booth at that.
- 3:55 pm: Future meeting topics, & future actions; next meeting
- Update on getting a session at Have Grant County present their VSP summary table (another view for how the data can be presented)
- Next meeting – set aside that for the formal presentation of the definitions of ag viability and for Skagit county presentation – ½ day – need both SAC and TP there Grant county available.
- 4:00 pm: Adjourn